

§ 40.95

(c) With respect to any non-evidential screening device involving changes, contrasts, or other readings that are indicated on the device in terms of color, STTs shall, in order to be regarded as proficient, be able to discern correctly these changes, contrasts or readings.

(d) The STT shall receive additional training, as needed, to ensure proficiency, concerning new or additional devices or changes in technology that he or she will use.

(e) The employer or its agent shall document the training and proficiency of each STT it uses to test employees and maintain the documentation as provided in § 40.83.

(f) The provisions of § 40.51(b) and (c); § 40.57; § 40.59; § 40.61; § 40.63 (e)(1)–(2), (f), (g), and (h); § 40.69; and § 40.81; and other provisions, as applicable, of this part apply to STTs as well as to BATs.

§ 40.95 Quality assurance plans for non-evidential screening devices.

(a) In order to be used for alcohol screening tests subject to this part, a non-evidential screening device shall have an approved quality assurance plan (QAP) developed by the manufacturer and approved by the National Highway Traffic Safety Administration (NHTSA).

(1) The plan shall designate the method or methods to be used to perform quality control checks; the temperatures at which the non-evidential screening device shall be stored and used, as well as other environmental conditions (*e.g.*, altitude, humidity) that may affect the performance of the device; and, where relevant, the shelf life of the device.

(2) The QAP shall prohibit the use of any device that does not pass the specified quality control checks or that has passed its expiration date.

(b) The manufacturers' instructions on or included in the package for each saliva testing device shall include directions on the proper use of the device, the time frame within which the device must be read and the manner in which the reading is made.

(c) The employer and its agents shall comply with the QAP and manufacturer's instructions for each non-evidential

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tial screening device it uses for alcohol screening tests subject to this Part.

§ 40.97 Locations for non-evidential alcohol screening tests.

(a) Locations for non-evidential alcohol screening tests shall meet the same requirements set forth for breath alcohol testing in § 40.57 of this part.

(b) The STT shall supervise only one employee's use of a non-evidential screening device at a time. The STT shall not leave the alcohol testing location while the screening test procedure for a given employee is in progress.

§ 40.99 Testing forms.

STTs conducting tests using a non-evidential screening device shall use the alcohol testing form as provided in § 40.59 and appendix B of this part for the screening test.

§ 40.101 Screening test procedure.

(a) The steps for preparation for testing shall be the same as provided for breath alcohol testing in § 40.61 of this part.

(b) The STT shall complete Step 1 on the form required by § 40.99. The employee shall then complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification shall be regarded as a refusal to take the test.

(c) If the employer is using a non-evidential breath testing device, the STT shall follow the same steps outlined for screening tests using EBTs in § 40.63.

(d) If the employer is using a saliva testing device, the STT shall take the following steps:

(1) The STT shall explain the testing procedure to the employee.

(2) The STT shall check the expiration date of the saliva testing device, show the date to the employee, and shall not use a device at any time subsequent to the expiration date.

(3) The STT shall open an individually sealed package containing the device in the presence of the employee.

(4) The STT shall offer the employee the opportunity to use the swab. If the employee chooses to use the swab, the STT shall instruct the employee to insert the absorbent end of the swab into